

NEW YORK STATE SUPREME COURT
ERIE COUNTY

-----X
RICHARD FOLGA,

Plaintiff,

-against-

DIOCESE OF BUFFALO and QUEEN OF PEACE
PARISH,

Defendants.
-----X

Index No.: _____

Date Filed: November 6, 2019

SUMMONS

Plaintiff designates Erie County
as the place of trial.

The basis of venue is one
defendant's residence.

Child Victims Act Proceeding
22 NYCRR 202.72

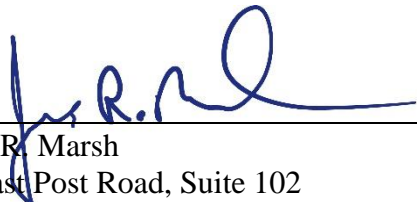
TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: November 6, 2019

Respectfully Yours,

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NEW YORK STATE SUPREME COURT
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COMPLAINT

Child Victims Act Proceeding
22 NYCRR 202.72

Plaintiff Richard Folga, by and through his attorneys, the Marsh Law Firm PLLC and Pfau Cochran Vertetis Amala PLLC, respectfully alleges for his complaint the following:

I. INTRODUCTION

1. The Diocese of Buffalo (the “Diocese”) knew for decades that its priests, clergy, teachers, school administrators, employees, and volunteers were using their positions within the Diocese to groom and to sexually abuse children. Despite that knowledge, the Diocese failed to take reasonable steps to protect children from being sexually abused and actively concealed the abuse.

2. Since 2018, following decades of denial and cover-up, the Diocese of Buffalo began releasing the names of priests who were accused of sexually abusing children. While the Diocese of Buffalo has listed at least 80 priests with substantiated claims of sexual abuse of a minor, it has been reported that there are well over a 100 clergy in the Diocese of Buffalo who have faced allegations of sexually abusing a child. Based on the Diocese’s wrongful conduct, a reasonable person could and would conclude that it knowingly and recklessly disregarded the abuse of children and chose to protect its reputation and wealth over those who deserved protection. The result is not surprising: for decades hundreds, if not thousands, of children were

sexually abused by Catholic clergy and others who served the Diocese. The plaintiff in this lawsuit is one of many children who was sexually abused because of the Diocese's wrongful conduct.

II. PROCEEDING IN ACCORDANCE WITH CPLR 214-G AND 22 NYCRR 202.72

3. This complaint is filed pursuant to the Child Victims Act (CVA) 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440), CPLR 214-G, and 22 NYCRR 202.72. The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, plaintiff's claims were time-barred the day he turned 22 years old. The enactment of the CVA allows victims and survivors of childhood sexual abuse, for the first time in their lives, to pursue restorative justice in New York State.

III. PARTIES

4. Plaintiff Richard Folga is an adult male who currently resides in Gulf Breeze, Florida.

5. Upon information and belief, the Diocese is currently a not-for-profit religious corporation organized under New York law with its principal office in Buffalo, New York.

6. Upon information and belief, at all relevant times the Diocese conducted business as the "Diocese of Buffalo" and/or "Buffalo Diocese."

7. Upon information and belief, at all relevant times the Diocese employed priests, school administrators, teachers, religious sisters, and/or others who served various Catholic institutions and families, including plaintiff Richard Folga and his family.

8. Upon information and belief, Father Norbert Orsolits ("Father Orsolits") was a priest employed by the Diocese to serve Catholic families, including plaintiff Richard Folga and his family. During the time Father Orsolits was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff Richard Folga.

9. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Orsolits used his position as a priest to sexually abuse plaintiff Richard Folga, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

10. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Orsolits used his position as a priest to sexually abuse plaintiff Richard Folga, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

11. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the “Diocese.”

12. Upon information and belief, at all relevant times defendant Queen of Peace Parish (“Queen of Peace”) was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

13. Upon information and belief, Queen of Peace is currently a not-for-profit religious corporation organized under New York law with its principal office in Buffalo, New York.

14. Upon information and belief, at all relevant times Queen of Peace conducted business as “Queen of Peace,” “Queen of Peace Church,” or “Queen of Peace Parish.”

15. Upon information and belief, Queen of Peace is a parish located in Buffalo, New York.

16. Upon information and belief, Father Norbert Orsolits was a priest employed by Queen of Peace to serve Catholic families in its geographic jurisdiction, including plaintiff Richard Folga and his family. During the time Father Norbert Orsolits was employed by Queen of Peace, he used his position as a priest to groom and to sexually abuse plaintiff Richard Folga.

17. To the extent that Queen of Peace was a different entity, corporation, or organization during the period of time during which Father Orsolits used his position as a priest to sexually abuse Richard, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

18. To the extent Queen of Peace is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Orsolits used his position as a priest to sexually abuse Richard, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

19. All such Queen of Peace-related entities, corporations, or organizations are collectively referred to herein as “Queen of Peace.”

IV. VENUE

20. Venue is proper because the Diocese is a domestic corporation authorized to transact business in New York with its principal office located in Erie County.

21. Venue is proper because Queen of Peace is a domestic corporation authorized to transact business in New York with its principal office located in Buffalo, New York.

22. Venue is proper because Erie is the county in which a substantial part of the events or omissions giving rise to plaintiff’s claim occurred.

V. STATEMENT OF FACTS AS TO PLAINTIFF RICHARD FOLGA

23. Upon information and belief, at all relevant times the Diocese was the owner of Queen of Peace and held itself out to the public as the owner of Queen of Peace.

24. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Queen of Peace.

25. Upon information and belief, at all relevant times the Diocese employed priests, school administrators, teachers, religious sisters, and/or others who served Catholic families at Queen of Peace, including plaintiff Richard Folga and his family.

26. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Queen of Peace, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled Queen of Peace.

27. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at Queen of Peace.

28. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at Queen of Peace.

29. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of Queen of Peace, including the services of Father Orsolits and the services of those who managed and supervised Father Orsolits.

30. Upon information and belief, at all relevant times Queen of Peace owned a parish.

31. Upon information and belief, at all relevant times Queen of Peace held itself out to the public as the owner of Queen of Peace.

32. Upon information and belief, at all relevant times Queen of Peace employed priests, school administrators, teachers, religious sisters, and/or others who served Catholic families, including plaintiff Richard Folga and his family.

33. Upon information and belief, at all relevant times Queen of Peace, its agents, servants, and employees managed, maintained, operated, and controlled Queen of Peace, and held

out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled Queen of Peace.

34. Upon information and belief, at all relevant times Queen of Peace was responsible for and did the staffing and hiring at Queen of Peace.

35. Upon information and belief, at all relevant times Queen of Peace was responsible for and did the recruitment and staffing of volunteers at Queen of Peace.

36. Upon information and belief, at all relevant times Queen of Peace materially benefitted from the operation of Queen of Peace, including the services of Father Orsolits and the services of those who managed and supervised Father Orsolits.

37. Upon information and belief, at all relevant times Father Orsolits was a priest of the Diocese.

38. Upon information and belief, at all relevant times Father Orsolits was on the staff of, acted as an agent of, and served as an employee of the Diocese.

39. Upon information and belief, at all relevant times Father Orsolits was acting in the course and scope of his employment with the Diocese.

40. Upon information and belief, at all relevant times Father Orsolits was employed by the Diocese and assigned to Queen of Peace.

41. Upon information and belief, at all relevant times Father Orsolits was a priest of Queen of Peace.

42. Upon information and belief, at all relevant times Father Orsolits was on the staff of, was an agent of, and served as an employee of Queen of Peace.

43. Upon information and belief, at all relevant times Father Orsolits was acting in the course and scope of his employment with Queen of Peace.

44. Upon information and belief, at all relevant times Father Orsolits had an office on the premises of Queen of Peace.

45. When plaintiff Richard Folga was a minor, he and his parents were members of the Diocese and Queen of Peace, including when they were parishioners.

46. At all relevant times, the Diocese and Queen of Peace, their agents, servants, and employees, held Father Orsolits out to the public, to Richard, and to his parents, as their agent and employee.

47. At all relevant times, the Diocese and Queen of Peace, their agents, servants, and employees, held Father Orsolits out to the public, to Richard, and to his parents, as having been vetted, screened, and approved by those defendants.

48. At all relevant times, Richard and his parents reasonably relied upon the acts and representations of the Diocese and Queen of Peace, their agents, servants, and employees, and reasonably believed that Father Orsolits was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

49. At all relevant times, Richard and his parents trusted Father Orsolits because the Diocese and Queen of Peace held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of Richard.

50. At all relevant times, Richard and his parents believed that the Diocese and Queen of Peace would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of Richard.

51. When Richard was a minor, Father Orsolits sexually abused him.

52. Richard was sexually abused by Father Orsolits when he was approximately 16 or 17 years old.

53. Based on the representations of the Diocese and Queen of Peace that Father Orsolits was safe and trustworthy, Richard and his parents allowed Richard to be under the supervision of, and in the care, custody, and control of, the Diocese and Queen of Peace, including when Richard was sexually abused by Father Orsolits.

54. Based on the representations of the Diocese and Queen of Peace that Father Orsolits was safe and trustworthy, Richard and his parents allowed Richard to be under the supervision of, and in the care, custody, and control of, Father Orsolits, including when Richard was sexually abused by Father Orsolits.

55. Neither Richard nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, Queen of Peace, or Father Orsolits if the Diocese or Queen of Peace had disclosed to Richard or his parents that Father Orsolits was not safe and was not trustworthy, and that he in fact posed a danger to Richard in that Father Orsolits was likely to sexually abuse Richard.

56. No parent of ordinary prudence in comparable circumstances would have allowed Richard to be under the supervision of, or in the care, custody, or control of, the Diocese, Queen of Peace, or Father Orsolits if the Diocese or Queen of Peace had disclosed to Richard or his parents that Father Orsolits was not safe and was not trustworthy, and that he in fact posed a danger to Richard in that Father Orsolits was likely to sexually abuse him.

57. From approximately 1965 through 1966, Father Orsolits exploited the trust and authority vested in him by defendants by grooming Richard to gain his trust and to obtain control over him as part of Father Orsolits's plan to sexually molest and abuse Richard and other children.

58. Father Orsolits used his position of trust and authority as a priest of the Diocese and of Queen of Peace to gain access to Richard and his family, and to groom Richard and to sexually

abuse him, including when Richard was under the supervision of, and in the care, custody, or control of, the Diocese, Queen of Peace, and Father Orsolits.

59. The sexual abuse of Richard by Father Orsolits occurred in Richard's home, which Father Orsolits was able to access because of his position as a priest of the defendants.

60. Upon information and belief, prior to the times mentioned herein, Father Orsolits was a known sexual abuser of children.

61. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Orsolits was a known sexual abuser of children.

62. Upon information and belief, at all relevant times, it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Orsolits's sexual abuse of children would likely result in injury to others, including the sexual abuse of Richard and other children by Father Orsolits.

63. Upon information and belief, the defendants, their agents, servants, and employees, knew or should have known that Father Orsolits was sexually abusing Richard and other children at Queen of Peace and elsewhere.

64. Upon information and belief, the Diocese and Queen of Peace, their agents, servants, and employees, knew or should have known before and during Father Orsolits's sexual abuse of Richard that priests, school administrators, teachers, religious sisters, and/or other persons serving the Diocese and Queen of Peace had used their positions with those defendants to groom and to sexually abuse children.

65. Upon information and belief, the Diocese and Queen of Peace, their agents, servants, and employees, knew or should have known before and during Father Orsolits's sexual

abuse of Richard that such priests, school administrators, teachers, religious sisters, and/or other persons could not be “cured” through treatment or counseling.

66. Upon information and belief, the Diocese and Queen of Peace, their agents, servants, and employees, concealed the sexual abuse of children by Father Orsolits in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Orsolits would continue to molest children.

67. Upon information and belief, the Diocese and Queen of Peace, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Orsolits would use his position with the defendants to sexually abuse children, including Richard.

68. Upon information and belief, the Diocese and Queen of Peace, their agents, servants, and employees, disregarded their knowledge that Father Orsolits would use his position with them to sexually abuse children, including Richard.

69. Upon information and belief, the Diocese and Queen of Peace, their agents, servants, and employees, acted in concert with each other or with Father Orsolits to conceal the danger that Father Orsolits posed to children, including Richard, so that Father Orsolits could continue serving them despite their knowledge of that danger.

70. Upon information and belief, the Diocese and Queen of Peace, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including Richard, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

71. Upon information and belief, the Diocese and Queen of Peace, their agents, servants, and employees, concealed the sexual abuse of children by priests, school administrators, teachers, religious sisters, and/or others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests, school administrators, teachers, religious sisters, and/or other persons would continue to molest children.

72. By reason of the wrongful acts of the Diocese and Queen of Peace as detailed herein, Richard sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Richard has and/or will become obligated to expend sums of money for treatment.

VI. CAUSES OF ACTION AS TO PLAINTIFF RICHARD FOLGA

A. FIRST CAUSE OF ACTION – NEGLIGENCE

73. Plaintiff Richard Folga repeats and re-alleges all of his allegations above and below.

74. The Diocese and Queen of Peace had a duty to take reasonable steps to protect plaintiff Richard Folga, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

75. The Diocese and Queen of Peace also had a duty to take reasonable steps to prevent Father Orsolits from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including Richard.

76. The Diocese and Queen of Peace were supervising Richard, and had care, custody, and control of Richard, when he was a parishioner and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

77. These circumstances created a special relationship between the Diocese and Richard, and between Queen of Peace and Richard, which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

78. The Diocese and Queen of Peace breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Orsolits from harming Richard, including sexually abusing him.

79. In breaching their duties, including hiring, retaining, and failing to supervise Father Orsolits, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Richard, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Richard and other children who were under their supervision and in their care, custody, and control, the Diocese and Queen of Peace created a risk that Richard would be sexually abused by Father Orsolits. The Diocese and Queen of Peace through their actions and inactions created an environment that placed Richard in danger of unreasonable risks of harm under the circumstances.

80. In breaching their duties, including hiring, retaining, and failing to supervise Father Orsolits, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Richard, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Richard and other children

who were under their supervision and in their care, custody, and control, the Diocese and Queen of Peace acted willfully and with conscious disregard for the need to protect Richard. The Diocese and Queen of Peace through their actions and inactions created an environment that placed Richard in danger of unreasonable risks of harm under the circumstances.

81. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of Richard.

82. As a direct and proximate result of the acts and omissions of the Diocese and Queen of Peace, Father Orsolits groomed and sexually abused Richard, which has caused Richard to suffer general and special damages as more fully described herein.

B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

83. Plaintiff Richard Folga repeats and re-alleges all of his allegations above and below.

84. The Diocese and Queen of Peace engaged in reckless, extreme, and outrageous conduct by providing Father Orsolits with access to children, including plaintiff Richard Folga, despite knowing that he would likely use his position to groom and to sexually abuse them, including Richard. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

85. As a result of this reckless, extreme, and outrageous conduct, Father Orsolits gained access to Richard and sexually abused him.

86. The Diocese and Queen of Peace knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Richard did in fact suffer severe emotional and psychological distress and

personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

VII. CPLR 1603 – NO APPORTIONMENT OF LIABILITY

87. Pursuant to CPLR 1603, the foregoing causes of action are exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(2), CPLR 1602(5), 1602(7) and 1602(11), thus precluding defendants from limiting their liability by apportioning some portion of liability to any joint tortfeasor.

VIII. PRAYER FOR RELIEF


88. Plaintiff Richard Folga demands judgment against the defendants named in his causes of action, together with compensatory and punitive damages to be determined at trial, and the interest, cost and disbursements pursuant to his causes of action, and such other and further relief as the Court deems just and proper.

89. Plaintiff Richard Folga specifically reserves the right to pursue additional causes of action, other than those outlined above, that are supported by the facts pleaded or that may be supported by other facts learned in discovery.

Dated: November 6, 2019

Respectfully Yours,

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